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10/727,697	12/04/2003	Ted A. Barnes	PGI 02910 PTUS	8662
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STORM LLP			VANTERPOOL, LESTER L.	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/727,697	Applicant(s) BARNES, TED A.
	Examiner LESTER L. VANTERPOOL	Art Unit 3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 June 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3 & 5 are rejected under 35 U.S.C. 102(b) as being anticipated by

Masui et al., (U.S. Patent Number 6305241 B1).

Masui et al., discloses the body (34) adapted for attachment to the control bracket (124, 126, 128 & 130); the pair of substantially parallel mounting holes (44 & 52) extending through the body (34) (See Figure 1); the mounting holes (44 & 52) aligned with portals (1st & 2nd Threaded Blind Holes) in the control bracket (124, 126, 128 & 130); the radial relief (60 & 120) located between the parallel mounting holes (44 & 52); the threaded accessory hole (82) in the body (34) (See Column 4, lines 23 – 24); and, wherein the body (34) is attachable to the control bracket (124, 126, 128 & 130) by location of fasteners (48 & 56) through the mounting holes (44 & 52) and control bracket portals (1st & 2nd Threaded Blind Hole) in threaded connection with the control body (22) (See Column 4, lines 41 – 65) (See Figure 3).

Regarding claim 3, Masui et al., discloses the body (34) being generally rectangular (See Figure 3).

Regarding claim 5, Masui et al., discloses the threaded accessory hole (82) is located in substantially perpendicular relationship to the mounting holes (44 & 52) (See Figure 3).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masui et al., (U.S. Patent Number 6305241) in view of Ho (U.S. Patent Number 6062053).

However, Masui et al., does not disclose the countersink portion that is larger in diameter than the cylinder portion.

Ho teaches the countersink portion (25) that is larger in diameter than the cylinder portion (See Figure 2)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the countersink portion that is larger in diameter than the cylinder portion as taught by Ho with the vehicle accessory mount of Masui et al., in order to enhance fastener protection.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masui et al., (U.S. Patent Number 6305241) in view of Chen (U.S. Patent Number 6644614 B1).

However, Masui et al., does not disclose the threaded accessory hole being located between the mounting holes.

Chen teaches the threaded accessory hole (511) is located between the mounting holes (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the threaded accessory hole located between the mounting holes as taught by Chen with the vehicle accessory mount of Masui et al., in order to enhance multi-functional capabilities.

6. Claims 6 & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui et al., (U.S. Patent Number 6305241) in view of Penning (U.S. Patent Number 5827282).

Masui et al., discloses the body (34) adapted for attachment to the control bracket (124, 126, 128 & 130); the pair of substantially parallel mounting holes (44 & 52) extending through the body (34); the mounting holes (44 & 52) aligned with portals (1st & 2nd Threaded Blind Holes) in the control bracket (124, 126, 128 & 130); and wherein the body (34) is attachable to the control bracket (124, 126, 128 & 130) by location of fasteners (48 & 56) through the mounting holes (44 & 52) and control bracket portals (1st & 2nd Threaded Blind Holes) in threaded connection with the control body (22) (See Column 4, lines 41 – 65) (See Figure 3).

However, Masui et al., does not disclose the ball stud attached to the threaded accessory hole.

Penning teaches the ball stud (9) attached to the threaded accessory hole (6) (See Figures 1 & 2).

It would have been obvious to one having ordinary skill in the art at the invention was made to make the ball stud attached to the threaded accessory hole as taught by Penning with the vehicle accessory mount of Masui et al., in order to enhance accessory attachments.

7. Claims 8, 9, 10, 12, 14, 17 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui et al., (U.S. Patent Number 6305241) in view of Japan Patent Number 4-133886.

Masui et al., discloses the body (34) adapted for attachment to the control bracket (124, 126, 128 & 130); the pair of substantially parallel mounting holes (44 & 52) extending through the body (34); the mounting holes (44 & 52) aligned with portals (1st & 2nd Threaded Blind Holes) in the control bracket (124, 126, 128 & 130); the threaded accessory hole (82) in the body (34) (See Column 4, lines 23 – 24); and wherein the body (34) is attachable to the control bracket (124, 126, 128 & 130) by location of fasteners (48 & 56) through the mounting holes (44 & 52) and control bracket portals (1st & 2nd Threaded Blind Holes) in threaded connection with the control body (22) (See Column 4, lines 41 – 65) (See Figure 3).

However, Masui et al., does not disclose the pair of hollow standoffs locatable between the mounting holes and bolt portals in the control bracket.

Japanese reference teaches the pair of hollow standoffs (33) (See Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pair of hollow standoffs locatable between the mounting holes and bolts portals in the control bracket, since it has been held that mere duplication of the essential working parts of the device involves only routine skill in the art.

Regarding claim 9, Masui et al., discloses the body (34) being generally rectangular (See Figure 3).

Regarding claim 10, Masui et al., discloses the radial relief (60) located between the parallel mounting holes (44 & 52) (See Figure 3).

Regarding claim 12, Masui et al., discloses the threaded accessory hole (82) is located in substantially perpendicular relationship to the mounting holes (44 & 52).

Regarding claim 14, Masui et al., does not disclose the inside diameter of each hollow standoff is substantially the same as the inside diameter of the cylinder portion of the mounting holes.

Japanese reference teaches the inside diameter of each hollow standoff is substantially the same as the inside diameter of the cylinder portion of the mounting holes (See Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the inside diameter of the cylinder portion of the mounting holes as taught by the Japanese reference with the vehicle accessory mount of Masui et al., in order to enhance flush fittings.

Regarding claim 17, Masui et al., does not disclose wherein each standoff is locatable in the recess on the control bracket.

Japanese reference teaches the standoff (33) locatable in the recess on the control bracket (28) (See Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the standoff locatable in the recess on the control bracket as taught by the Japan reference with the vehicle accessory mount of Masui et al., in order to enhance flush fittings.

Regarding claim 19, Masui et al., discloses the body (34) adapted for attachment to the control bracket (124, 126, 128 & 130); the threaded accessory hole (82) in the body (34) (See Column 4, lines 23 – 24); the pair of substantially parallel mounting holes (44 & 52) extending through the body (34); the mounting holes (44 & 52) aligned with portals (1st & 2nd Threaded Blind Holes) in the control bracket (124, 126, 128 &

130); and wherein the body (34) is attachable to the control bracket (124, 126, 128 & 130) by location of fasteners (48 & 56) through the mounting holes (44 & 52) and control bracket portals (1st & 2nd Threaded Blind Holes) in threaded connection with the control body (22) (See Column 4, lines 41 – 65) (See Figure 3).

However, Masui et al., does not disclose wherein each standoff is locatable in the recess on the control bracket.

Japanese reference teaches the standoff (33) locatable in the recess on the control bracket (28) (See Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the standoff locatable in the recess on the control bracket as taught by the Japan reference with the vehicle accessory mount of Masui et al., in order to enhance flush fittings.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masui et al., (U.S. Patent Number 6305241) and Japan Patent Number 4-133886) as applied to claim 8 above, and further in view of Chen (U.S. Patent Number 6644614 B1).

However, Masui et al., does not disclose the threaded accessory hole being located between the mounting holes.

Chen teaches the threaded accessory hole (511) is located between the mounting holes (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the threaded accessory hole located between the

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mounting holes as taught by Chen with the vehicle accessory mount of Masui et al., in order to enhance multi-functional capabilities.

9. Claim 13 & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui et al., (U.S. Patent Number 6305241) and Japan Patent Number 4-133886) as applied to claim 8 above, and further in view of Ho (U.S. Patent Number 6062053).

However, Masui et al., does not disclose the countersink portion that is larger in diameter than the cylinder portion.

Ho teaches the countersink portion (25) that is larger in diameter than the cylinder portion (See Figure 2)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the countersink portion that is larger in diameter than the cylinder portion as taught by Ho with the vehicle accessory mount of Masui et al., in order to enhance fastener protection.

Regarding claim 18, Masui et al., does not disclose each standoff locatable in the countersunk portion on the control bracket.

Ho teaches standoffs capable locatable in the countersunk portion (25) on the control bracket (20) (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make standoffs capable locatable in the countersunk portion on

the control bracket as taught by Ho with the vehicle accessory mount of Masui et al., in order to enhance fastener protection

10. Claims 15 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui et al., (U.S. Patent Number 6305241 B1) in view of Japan (Patent Number 4-133886) and Penning (U.S. Patent Number 5827282).

Masui et al., discloses the body (34) adapted for attachment to the control bracket (124, 126, 128 & 130); the pair of elongated mounting holes (44 & 52) extending through the body (34) (See Figure 1); the mounting holes (44 & 52) aligned with portals (1st & 2nd Threaded Blind Holes) in the control bracket (124, 126, 128 & 130); and, wherein the body (34) is attachable to the control bracket (124, 126, 128 & 130) by location of fasteners (48 & 56) through the mounting holes (44 & 52) and control bracket portals (1st & 2nd Threaded Blind Holes) in threaded connection with the control body (22) (See Column 4, lines 41 – 65) (See Figure 3).

However, Masui et al., does not disclose the pair of hollow standoffs locatable between the mounting holes and portals.

Japanese reference teaches the pair of hollow standoffs (33) (See Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pair of hollow standoffs locatable between the mounting holes and portals, since it has been held that mere duplication of the essential working parts of the device involves only routine skill in the art.

However, Masui et al., does not disclose the ball stud attached to the threaded accessory hole.

Penning teaches the ball stud (9) attached to the threaded accessory hole (6) (See Figures 1 & 2).

It would have been obvious to one having ordinary skill in the art at the invention was made to make the ball stud attached to the threaded accessory hole as taught by Penning with the vehicle accessory mount of Masui et al., in order to enhance accessory attachments.

Regarding claim 16, Masui et al., as modified does not disclose the ball stud attached to the threaded accessory hole.

Penning teaches the ball stud (9) attached to the threaded accessory hole (6) (See Figures 1 & 2).

It would have been obvious to one having ordinary skill in the art at the invention was made to make the ball stud attached to the threaded accessory hole as taught by Penning with the vehicle accessory mount of Masui et al., in order to enhance accessory attachments.

Response to Arguments

11. Applicant's arguments filed June 12, 2008 have been fully considered but they are not persuasive.

Applicant argues Masui does not teach "a body adapted for attachment to the control bracket," as disclosed in claim 1.

The examiner disagrees, applicant is claiming "a vehicle accessory mount", wherein "the vehicle accessory mount" comprises: "a body, the control bracket, a pair of substantially parallel mounting holes, a radial relief, a threaded accessory hole, fasteners and a control body.

Furthermore, in response to applicant's arguments, the recitation "a handle-barred vehicle throttle or clutch control body" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In addition, the preamble recites functional and intended use language such as: "adapted for attachment"...

Masui teaches a vehicle accessory mount body (34) adapted for attachment...
(See Figure 3).

Therefore, if a prior art structure is capable of performing the intended use as recited in the preamble, then it meets the claim. See, e.g., *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997) (anticipation rejection affirmed based on Board's factual finding that the reference dispenser (a spout disclosed as

useful for purposes such as dispensing oil from an oil can) would be capable of dispensing popcorn in the manner set forth in appellant's claim 1 (a dispensing top for dispensing popcorn in a specified manner)) and cases cited therein. See also MPEP § 2112 - § 2112.02.

In addition, claim 1 does not further define the structural characteristics of the control bracket and the control body.

Therefore, applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lester L. Vanterpool/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782